



Fluor
100 Fluor Daniel Drive
Greenville, SC 29607

October 12, 2005

Defense Acquisition Regulations Council
Attn: Ms. Amy Williams
OUSD (AT&L) DPAP (DAR)
IMD 3C132
3062 Defense Pentagon
Washington, D.C. 20301-3062

Re: Proposed Rule, 70 FR 39976, DFAR Supplement; Export-Controlled Information and Technology

Fluor appreciates the opportunity to submit comments on this proposed rule. We believe that the rule will help strengthen education and compliance with export control requirements. We offer the following comments and suggestions:

1. While the contract clause describes the most common elements of an export compliance program, we suggest that instead of specific requirements, the rule require submittal and approval of a compliance plan. The elements, (d(1), d(2), e(1) and e(2)), could remain in the rule as examples of common elements of compliance plans.

A compliance plan allows tailoring to the individual circumstances of the contract. For example, if a single engineer had to verify compatibility with a piece of equipment and that information was export controlled, if that individual was trained and authorized to view the information it would be excessive to impose the badging control and training requirements on the contract and/or the company. Another example is that the circumstances may be such that it is cheaper or more effective to badge those people that are authorized to receive information, rather than badge foreign nationals. As the rule is currently written, such practice would not comply with the requirements. A compliance plan would allow the contracting officer and the company the flexibility to assure the appropriate level of protection without imposing unnecessary cost or bureaucracy.

2. We recommend that the clause be voided if the contracting officer fails to identify with specificity the export-controlled information and technology. If there is no incentive for the contracting officer to be specific, we worry that the clause will be routinely included with nothing but the vague assertion that export controlled information or technology may be encountered in performing the contract. If this happens, the government would be bearing the cost of unnecessary compliance programs. It would be added cost with no commensurate benefit. The risks related to implementing our suggestion are low, as the export requirements remain enforceable law, regardless of the contract clause.

Ms. Amy Williams

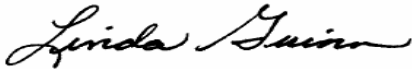
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3. We would like to raise the issue that selective badging must be done carefully to avoid creating concerns over unconstitutional national origin discrimination. Contractually mandating badging may cause employment difficulties for the contractors.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Linda Guinn".

Linda Guinn
Assistant General Counsel